

Wilmington Trust Center, 1100 North Market Street, Suite 1001, Wilmington, DE 19801
Tel: (302) 777-5860 ■ Fax: (302) 777-5863 ■ www.WolfBlock.com

Todd C. Schiltz
Direct Dial: (302) 777-0312
Direct Fax: (302) 778-7812
E-mail: tschiltz@wolfblock.com

February 28, 2006

VIA HAND DELIVERY

Honorable Kent A. Jordan
United States District Court
844 King Street
Room 6325
Wilmington, DE 19801

Re: Sokolove v. City of Rehoboth Beach, Delaware
C.A. No. 05-514 (KAJ)

Dear Judge Jordan:

I write on behalf of plaintiff Citizens for Rehoboth Beach ("CRB") regarding its motion to compel which is scheduled to be heard on March 3, 2006 at 4:30 p.m.. CRB's motion presents four discrete issues, each of which is addressed below.

1. Insurance Policy:

Defendants' initial disclosures identified an insurance policy that provides coverage with respect to the claims asserted in this matter. Since November 9, 2005, the day after defendants belatedly served their initial disclosures, plaintiffs have requested a copy of the policy in accordance with FRCP 26 (a)(1)(D). The policy has not been produced and CRB request that the Court enter an order compelling its production.

2. Requests For Admission:

CRB served defendants with requests for admission on November 4, 2005. CRB's discovery included, among other things, requests that defendants admit that certain signs were located on public property or right of-way located within the City of Rehoboth Beach (the "Requests"). For example, request for admission number 11 asks defendants to "Admit that the signs shown on Exhibits D through K of the Second Affidavit of Robert Sokolove are located on public property or right-of-way within the limits of the City."

WIL:57259.1/sok014-230196

Judge Jordan
February 28, 2006
Page 2

Although a response to CRB's requests for admission was due on or before December 4, 2005, defendants provided no objection or response by this date.

On December 13, 2005, CRB advised defendants that their failure to respond timely to the requests for admission resulted in the requests being deemed admitted pursuant to FRCP 36(a) and that CRB intended to rely on these admissions for purposes of trial. Later that day, defendants served CRB with objections and responses to plaintiffs' requests for admission. (Copy attached as Exhibit A).

With respect to each of the Requests, defendants' objections and responses were as follows:

Answering Defendants cannot vouch for the authenticity or accuracy of the photograph referenced in the Request inasmuch as Answering Defendants did not take the photograph. Nevertheless, Defendants admit that the area shown in the photograph appears to be located on public property or right-of-way within the limits of the city.

(Exhibit A at response 9 through 12).

Defendants' responses are not responsive to the Requests. The question asked is whether the sign in the picture is located on public property or right-of-way, not whether the picture shows an area of public property or public right-of-way. Defendants' response appears to be calculated to avoid the direct question.

Although the responses were late and as a result the requests for admission were deemed admitted under Rule 36(a), a conclusion defendants dispute, on December 16, 2005, CRB offered to forego any reliance on the deemed admission if defendants provide a direct response to the Requests. Defense counsel said he would respond to this offer after conferring with his clients. To date, defendants have not responded to the offer.

CRB respectfully request that the Court issue an order that the requests for admissions are deemed admitted pursuant to FRCP 36(a) or, in the alternative, compel defendants to provide a direct response to the Requests.

3. Verification to Interrogatories:

CRB also served interrogatories on November 4, 2005. These too were not responded to in a timely manner and when answers were provided the answers were not verified by either

Judge Jordan
February 28, 2006
Page 3

defendant. CRB requested verifications on January 18, but to date have received nothing. Plaintiffs request that the Court direct defendants to provide verifications.

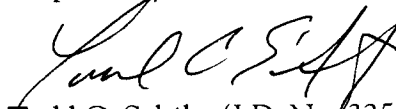
4. Document Production:

Defendants produced a handful of documents responsive to CRB's document requests, but the production is not complete. For example, the document Bates stamped REHOB 010 makes reference to documents "attached hereto" but these documents are not part of the production, the document Bates stamped REHOB 009 is missing from the production, and the documents Bates stamped REHOB 011 and 012 are just part of the minutes of a August 11, 1995 City Commissioner meeting where the ordinance at issue was adopted.

On January 18, 2006, CRB requested complete copies of all of these documents as well as any documents related to the ordinance which were distributed to the City Commissioners prior to the August 11, 1995 meeting. To date, no documents have been produced and CRB respectfully request that defendants be compelled to produce these materials.

Counsel for the individual plaintiffs has advised me that he supports CRB's motion to compel and seeks the same relief CRB requests herein.

Respectfully submitted,



Todd C. Schiltz (I.D. No. 3253)

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

TCS/ck
Attachment

cc: Clerk of the Court (w/ attachment, via e-filing)
Walter Speakman, Esquire (w/ attachment, via first class mail)
Daniel Griffith, Esquire (w/ attachment, via e-filing)
Roger D. Landon, Esquire (w/ attachment, via e-filing)